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COUNTY OF LOS ANGELES and DEPUTY TRAVIS KELLY
(Defendants is exempt from filing fees pursuant to Government Code § 6103)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOSHUA ASSIFF,

Plaintiffs,

v.

COUNTY OF LOS ANGELES;
SHERIFF DEPUTY BADGE
NUMBER 404532; And DOES 1
through 10,

Defendants.

Case No.: 2:22-cv-05367 RGK(MAAx)

**DECLARATION OF SERGEANT
TRAVIS KELLY**

*(Filed Concurrently with Defendants' Motion
for Partial Summary Judgment)*

Date: June 26, 2023

Time: 9:00 a.m.

Crtrm: 850

Action Filed: August 3, 2022

Pretrial Conference: July 10, 2023

Trial Date: July 25, 2023

Assigned to:

Hon. R. Gary Klausner, District Judge
Courtroom 850

All Discovery Matters Referred to:

Hon. Maria A. Audero, District Judge

DECLARATION OF SERGEANT TRAVIS KELLY

I, SERGEANT TRAVIS KELLY, declare and state as follows:

1. I am currently employed by the Los Angeles County Sheriff's Department ("LASD") in the rank of Sergeant. I have been employed at LASD as a sworn deputy since 1991.

2. This declaration is made in connection with the Motion for Summary Judgment or, in the alternative, Partial Summary Judgment in the above-entitled matter.

3. The following facts are stated from my personal knowledge, except those facts stated on information and belief which I believe to be true, and if called as a witness I could and would so competently testify thereto under oath.

4. On September 24, 2021, at approximately 7:50 a.m., I observed a black GMC Terrain (later determined by me to be driven by Plaintiff Assiff) make a right-hand turn without stopping for the steady circular red traffic signal (violation of California *Vehicle Code* section 21453(b)) and without yielding to pedestrians in the crosswalk (violation of California *Vehicle Code* section 21950(a)). A true and correct copy of my September 24, 2021 Incident Report is attached hereto as **Exhibit A**.

5. I initiated a traffic stop, and activated my non-department issued personal Body Worn Camera ("BWC") as I was dismounting my motorcycle at the outset of the traffic stop. A true and correct copy of the aforementioned September 24, 2021 BWC footage is lodged [see *Notice of Lodging*] concurrently, and referenced hereto, as **Exhibit B**.

6. From the beginning of the traffic stop, Plaintiff was argumentative about the reason for the traffic stop, and contradicted my statement that Plaintiff made a right-hand turn without stopping for the red traffic signal.

7. While Plaintiff was speaking, I could smell a strong odor of burnt marijuana emitting from his vehicle. See **Exhibit A1**. Due to Plaintiff's agitation, rapid speech, and odor of marijuana, I believed Plaintiff may have been under the influence of

1 marijuana. See **Exhibit A**.

2 8. I requested Plaintiff's driver's license multiple times, but Plaintiff continued
3 arguing and did not provide his driver's license. At the third request for Plaintiff's
4 driver's license, I warned Plaintiff, "give me your driver's license or you're going to jail."

5 9. In response to the third request for Plaintiff's driver's license, Plaintiff
6 stated "let me grab my phone," and began to reach towards the center console of the
7 vehicle with his right hand. Immediately thereafter, I opened Plaintiff's driver's door
8 and ordered Plaintiff to exit the vehicle. Plaintiff responded "no I'm not."

9 10. I then made physical contact with Plaintiff's left wrist for a brief moment to
10 pull him out of the vehicle, but Plaintiff pulled his left arm away. During this brief
11 struggle, I felt Plaintiff kick me. See **Exhibit A**.

12 11. I then stepped back slightly from Plaintiff, radioed for backup, and yelled
13 out for assistance to Deputy Joshua Clark, who was in the same parking lot. I believe
14 Plaintiff began to video record the incident on his cellphone.

15 12. Thereafter, I again ordered Plaintiff to exit his vehicle multiple times, and
16 warned Plaintiff that he would be pepper sprayed for failing to comply. Plaintiff
17 continued to refuse to comply with my verbal commands.

18 13. I then deployed my pepper-spray against Plaintiff, and initiated second
19 physical contact with Plaintiff to pull him out of the vehicle. At this time, I radioed that
20 I was involved in a fight.

21 14. Soon thereafter, Deputy Clark arrived and attempted to aid me with pulling
22 Plaintiff out of the vehicle. I saw Plaintiff punch Deputy Clark in the chest, and I
23 punched Plaintiff in the face. See **Exhibit A**.

24 15. While we continued to struggle with Plaintiff, Deputy Garrett Gallegos
25 arrived on the scene, and deployed his Taser to Plaintiff's back. We were able to bring
26 Plaintiff out of his vehicle and to the ground next to it. Once on the ground, Plaintiff
27 continued kicking and pulling his arms away despite commands to get onto his stomach
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1 and stop resisting.

2 16. I punched Plaintiff twice in the stomach to get him to comply, and Deputy
3 Gallegos again deployed his Taser to Plaintiff in an attempt to gain compliance.

4 17. I ordered Plaintiff to roll onto his stomach and place his hands behind his
5 back, and warned that the Taser would be used again if he did not comply. Plaintiff then
6 rolled onto his stomach, stopped resisting and was placed in handcuffs.

7 18. Based on the foregoing, I believed there was probable cause to arrest
8 Plaintiff for violation of California *Penal Code* sections 69 (resisting an officer) and
9 243(b) (battery against the person of an officer).

10 19. I did not intend to use unreasonable or excessive force against Plaintiff at
11 any point during the incident.

12 20. At no point during my encounter with Plaintiff did I ever retaliate against
13 him for anything he said or did to me or other LASD deputies, nor did I ever retaliate
14 against Plaintiff for recording the incident.

15 21. At no point during my encounter with Plaintiff were my actions due to
16 racial animus or discriminatory motive. Nor at any point during the encounter with
17 Plaintiff did I witness any other LASD deputy act out of racial animus or discriminatory
18 motive, or otherwise conduct themselves unlawfully or unreasonably. I did not racially
19 profile Plaintiff in initiating the traffic stop.

20 22. Furthermore, at no point during my interaction with Plaintiff did I act with
21 malice, oppression or in reckless disregard of Plaintiff's rights, nor did I observe any
22 other deputy act in such manner toward Plaintiff.

23 23. It is my understanding and belief that, on or about September 24, 2021, the
24 County and LASD maintained and strictly enforced policies and procedures regarding
25 traffic stops, as well as the use of force, including de-escalation procedures.

26 24. During my employment with LASD, I received all required LASD training
27 concerning how to conduct traffic stops and how to appropriately respond to passive and
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1 active resistance from motorists while conducting traffic stops. Further, I received
2 LASD training concerning de-escalation procedures that may be used while conducting
3 these traffic stops.

4 25. On the date of the subject incident, I was assigned and employed with
5 LASD Santa Clarita Valley station. At no point have I been assigned to nor worked with
6 LASD Antelope Valley stations, including LASD Lancaster and Palmdale stations.

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct.

9 Executed on May 24, 2023, at El Segundo, California.

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12 _____
13 SERGEANT TRAVIS KELLY
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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 841 Apollo Street, Suite 100, El Segundo, California 90245.

On May 24, 2023, I served the foregoing document described as **DECLARATION OF SERGEANT TRAVIS KELLY** on all interested parties in this action by placing a true copy thereof in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

By Mail I caused such envelope(s) to be deposited in the mail at El Segundo, California. The envelope was mailed with postage thereon fully prepaid and addressed to the parties listed on the Service List. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

XX **By Email** Based upon a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in the Service List. My email address is mnixon@kmslegal.com.

By Personal Service I caused such document to be Personally Served on the parties listed in the Service List.

XX **State** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 24, 2023, at El Segundo, California.

Maria Nixon

SERVICE LIST

Assiff, Joshua vs. County of Los Angeles, et al.

Central District- Case No.: 2:22-cv-05367 RGK(MAAX)

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